IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE THIRD DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE D.S.R.VARMA

-

WRIT PETITION NO : 4014 of 2005

Between:

M/s Pavan Aqua Limited,

represented by its Managing Director

Sri K. Lakshmana Murthy Raju,
48-14-62, Sirinagar, Rama Talkies Road,

Visakhapatnam - 16.

..... PETITIONER

AND

The A.P. State Cooperative Bank Ltd,

Represented by its Managing Director,
Industrial Finance, Troop Bazar, Hyderabad- 500 001.

.....RESPONDENT

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue Writ, Order or Direction more particularly one in the nature of Writ of Mandamus directing the Respondent to intimate their decision on the "OTS" (One time settlement) pursuant to their letter dated 17-8-2004 with respect to the settlement of the loan account of the Petitioner Company before taking any coercive steps for recovery of the outstanding amounts from the Petitioner Company and pass such other order or orders as this Honourable Court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner: MR.G.RAMA GOPAL

Counsel for the Respondent: Mr.A.H. Ramakrishna Rao

SC for A.P.State Cooperative Bank Ltd

The Court at the stage of admission made the following

THE HONOURABLE SRI JUSTICE D.S.R.VARMA

W.P.No.4014 of 2005

ORAL ORDER**:**

Heard both sides.

2**.** The petitioner seeks a direction to the respondent to intimate their decision on the O.T.S. (One Time Settlement) pursuant to their letter, dated 17-08-2004, with respect to the settlement of the loan account of the petitioner-company before taking any coercive steps for recovery of the outstanding amounts.

3. The respondent is a co-operative bank. Whether the respondent is a co-operative society governed by the provisions of the Co-operative Societies Act or the Banking Regulations Act or not, is a question of debate. It is a matter of debate pending adjudication before the Full Bench of this Court. However, there were certain

interim directions wherein and whereby the present writ petitioner and similarly situated people in a batch of writ petitions were directed to deposit an amount equivalent to 25% of the estimated liability.

4. In the present writ petition, the facts are that the petitioner is a debtor and committed breach. Consequently, the proceedings under Section 71 of the Co-operative Societies Act have been initiated. Challenging the said proceedings, the revisions in C.R.P.Nos.3379 and 3380 of 2002 have been filed by the present writ petitioner and similarly situated people under Article 227 of the Constitution of India and the respondent had also filed batch of writ petitions. All the matters put together, as a batch, are pending before a Full Bench of this Court awaiting the verdict.

5. Be that as it may, the respondent addressed letters to the borrowers informing them that there is a scheme viz., “One Time Settlement” introduced by the bank and advised the borrowers to avail that facility, if they so choose. In response to such a letter, dated 17-08-2004, the writ petitioner had addressed a letter, dated 04-10-2004 that they would attend the respondent bank in order to avail the opportunity of the said scheme. Later on, it appears that time for availing the said scheme has been extended upto 31-10-2004, as could be seen from the material made available before this Court, and which is not in dispute also.

6. The learned Standing Counsel appearing for the respondent-bank submits that the respondent would certainly consider if the petitioner approaches the respondent to avail the said scheme, notwithstanding the directions issued by a Full Bench of this Court while dealing with the issue, which was already referred to above.

7. It is a common knowledge that by way of “One Time Settlement”, several banking companies or banking institutions had extended the benefit of settling the matters by one time settlement in order to get back the loan amounts quickly. Perhaps, on the same lines, the respondent also introduced the scheme of “One Time Settlement” and the petitioner had also agreed to avail the said facility.

8. Having regard to the facts and circumstances,
it is expedient to direct the respondent-bank to consider the offer that is likely to be made during the course of deliberations and see that the dispute is settled, however, subject to conscience with rationale and pragmatic approach. It is clarified that till such time, there shall not be any further steps, much less coercive in any manner, initiated by the respondents, insofar as the petitioner is concerned.

9. It is further made clear that this order shall not be understood as in contravention or in deviation of the interim order passed by the Full Bench of this Court pending final orders for the simple reason that the issue involved in a batch of writ petitions pending before a Full Bench of this Court and in the present writ petition are totally distinct and different to each other. Further more, notwithstanding the result of the batch of writ petitions pending before the Full Bench of this Court, it cannot be understood that the scheme of “One Time Settlement” introduced by the respondent is taken away.

10. For the foregoing reasons, the respondent-bank is directed to inform the date and place to the petitioner for settlement under “One Time Settlement” and upon such intimation the petitioner shall approach the respondent-bank and after deliberations, the respondent-bank shall arrive at a conclusion either way.

11. With the above observations, the writ petition is disposed of, at the stage of admission. However, there shall be no order as to costs.

D.S.R. VARMA, J

03RD MARCH, 2005

ISN

To

1. The Managing Director,

The A.P. State Cooperative Bank Ltd,

Industrial Finance, Troop Bazar, Hyderabad- 500 001.

2. Two CD copies

THE HON'BLE SRI JUSTICE D.S.R.VARMA

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